



**U.S. Department of Justice
U.S. Attorney's Office
Western District of Texas**

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FOR IMMEDIATE RELEASE

March 8, 2006

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**COURT UPHOLDS ARMY'S DENIAL OF TEXAS NATIONAL GUARD SOLDIER'S
CONSCIENTIOUS OBJECTOR APPLICATION**

U.S. Attorney Johnny Sutton announced that a federal judge in San Antonio upheld the Department of the Army's denial of a Texas National Guard soldier's conscientious objector application. As a result, Specialist Katherine Jashinski was ordered to report to Fort Benning, GA, for training and subsequent deployment to Afghanistan.

According to court records, on November 2, 2005, Jashinski filed a petition for writ of habeas corpus in U.S. District Court seeking to reverse the Army's decision to deny her request for status as a conscientious objector and discharge from the armed services.

On April 20, 2002, Jashinski, originally from Wautoma, Wisconsin, voluntarily enlisted in the Texas Army National Guard. At the time, she was enrolled as an engineering student at the University of Texas at Austin. Because of her enlistment, she was afforded extensive educational benefits including qualifying for in-state tuition, over \$8,000 in bonus pay and other benefits. On her enlistment application, she answered "no" to the question, "Are you now or have you ever been a conscientious objector?"

In April 2004, two years after enlisting, Jashinski's unit received notification of possible mobilization and deployment to Afghanistan. A month later, Jashinski and her unit underwent individual weapons qualification where she qualified on her M-16 rifle. In June 2004, she submitted her conscientious objector application claiming she was opposed to war in all forms.

Her claim was investigated and her application was processed by the Texas National Guard and forwarded to the Army for decision. Under Army regulations, an soldier may be granted conscientious objector status by proving that he or she has a firm, fixed and sincere objection to participation in war in any form based on either religious conviction or deeply held moral and ethical beliefs developed through activity comparable in rigor and dedication to the process by which traditional religious convictions are formulated.

Ultimately, Jashinski application was denied by the Army Conscientious Objector Review Board on the grounds that: 1) she failed to meet her burden to prove she was a conscientious objector; 2) there was no evidence of a crystallized belief that she was a conscientious objector; and, 3) the timing of her application after her unit was alerted for deployment cast a shadow of doubt on her conscientious objector claim.

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Last week, United States District Judge Orlando Garcia denied her request stating, "In this case, the fact that Specialist Jashinski did not question her participation in the military until she received activation orders clearly raised substantial doubt as to whether her beliefs were sincere, as defined under the regulations."

Assistant United States Attorney Harold Brown and Major Rebecca Ausprung of the Army Judge Advocate General's Corps represented the Government in this matter.

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